



1 petitioner filed a third habeas petition in this Court in Case No. CV  
2 99-9312-WMB(BQR), which also was consolidated with the 1998 case. All  
3 three petitions alleged that petitioner's state court conviction in  
4 case no. VCR 5649 was unconstitutional, but each alleged different  
5 grounds for relief. On May 24, 2000, judgment was entered denying the  
6 consolidated petitions on the merits.

7 In 2000, petitioner filed two new habeas petitions in this Court.  
8 Case No. CV 00-5821-CAS(BQR) and Case No. CV 00-11519-ABC(BQR). The  
9 file in Case No. CV 00-11519(ABC)(BQR) included the Ninth Circuit's  
10 order denying petitioner's application for authorization to file a  
11 second or successive habeas petition. Both petitions were dismissed as  
12 successive, as were the subsequent petitions filed in Case Nos. EDCV  
13 02-34-RT(AJW) and CV 06-6151-ABC(AJW).

14 The present petition was filed on June 5, 2012. Like the  
15 petitions previously filed by petitioner, the present petition  
16 challenges the validity of petitioner's 1992 conviction in case number  
17 VCR 5649 in the San Bernardino County Superior Court. [Petition at 2-  
18 6].

19 A federal court must dismiss a second or successive petition that  
20 raises the same grounds as a prior petition. 28 U.S.C. § 2244(b)(1). A  
21 federal court must also dismiss a second or successive petition raising  
22 a new ground unless the petitioner can show that (1) the claim rests on  
23 a new, retroactive, constitutional right or (2) the factual basis of  
24 the claim was not previously discoverable through due diligence, and  
25 those new facts establish by clear and convincing evidence that but for  
26 the constitutional error, no reasonable factfinder would have found the  
27 applicant guilty of the underlying offense. 28 U.S.C. §  
28 2244(b)(2)(A)-(B). It is not the district court, however, that decides

1 whether a second or successive petition may be pursued. Rather,  
2 "[b]efore a second or successive application permitted by this section  
3 is filed in the district court, the applicant shall move in the  
4 appropriate court of appeals for an order authorizing the district  
5 court to consider the application." 28 U.S.C. § 2244(b)(3)(A); see  
6 Felker v. Turpin, 518 U.S. 651, 656-657 (1996). Absent authorization  
7 from the court of appeals, this court lacks jurisdiction over this  
8 second or successive petition. Greenawalt v. Stewart, 105 F.3d 1268,  
9 1277 (9th Cir.), cert. denied, 519 U.S. 1102 (1997).

10 Because petitioner has not obtained leave from the Court of  
11 Appeals to file a successive petition, this court lacks jurisdiction to  
12 consider it. Accordingly, the petition for a writ of habeas corpus is  
13 dismissed for lack of jurisdiction.

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15 Dated: June 12, 2012

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Audrey B. Collins  
United States District Judge  
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